

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:99CR224
)	
vs.)	ORDER
)	
DENNIS W. TYNDALL,)	
)	
Defendant.)	

This matter is before the court on defendant Dennis Tyndall's motion to reduce, Filing No. 130, his sentence, based on a December 10, 2007, U.S. Supreme Court decision. The court presumes the defendant is referring to *Kimbrough v. United States*, __U.S.__, 128 S. Ct. 558 (2007) dealing with the U.S. Sentencing Commission's 2007 crack cocaine guideline amendment.

The Grand Jury indicted defendant on October 20, 1999. On February 11, 2000, after a jury trial, the jury found defendant guilty of attempted aggravated sexual assault. On September 27, 2000, this court sentenced the defendant to 186 months' imprisonment. Further, on February 8, 2002, the defendant filed a Motion Pursuant to 28 U.S.C. § 2255; and on March 21, 2005, the court denied that motion. The court has reviewed the defendant's record including his sentencing and finds that defendant's motion to reduce his sentence, Filing No. 130, has no basis and is therefore denied. Defendant's reliance on *United States v. Booker*, 543 U.S. 220 (2005), has not been applied retroactively. Further, the Guideline Amendments referred to by the defendant in this motion apply only to cocaine cases, not to sexual assault cases.

THEREFORE, IT IS ORDERED that defendant's motion to reduce his sentence, Filing No. 130, is denied.

DATED this 8th day of January, 2008.

BY THE COURT:

s/Joseph F. Bataillon
Chief District Judge